

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MILTON CRUZ,)
v. Plaintiff,)
FCI McKEAN STAFF, et al,) C.A. No. 05-340 Erie
Defendants.)

MEMORANDUM ORDER

Plaintiff's complaint was received by the Clerk of Court on November 17, 2005, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The magistrate judge's report and recommendation, filed on December 14, 2006, recommended that Defendants' Motion to Dismiss, or In the Alternative, for Summary Judgment (Doc. #16) be granted. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail at FCI McKean, where he is incarcerated, and on Defendants. No objections were filed. After de novo review of the pleadings and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 31st Day of January, 2007;

IT IS HEREBY ORDERED that Defendants' Motion to Dismiss, or In the Alternative, for Summary Judgment (Doc. #16) is GRANTED.

The report and recommendation of Magistrate Judge Baxter, dated December 13, 2006, is adopted as the opinion of the court.

Maurice B. Cohill, Jr.
MAURICE B. COHILL, JR.
United States District Judge

cc: Susan Paradise Baxter
U.S. Magistrate Judge

all parties of record _____